

EPA Region 5 Records Ctr.



264203

A Partnership Including  
Professional Corporations  
227 West Monroe Street  
Chicago, IL 60606-5096  
312-372-2000  
Facsimile 312-984-2098  
www.mwe.com

Todd R. Wiener  
Attorney at Law  
twiener@mwe.com  
312-984-7719

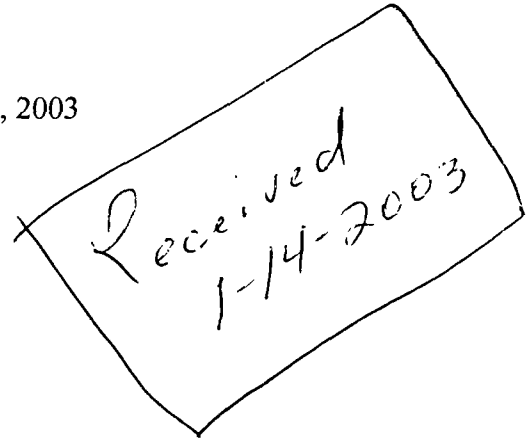
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**MCDERMOTT, WILL & EMERY**

January 13, 2003

**BY FEDERAL EXPRESS**

Mr. Carlton D. Cuffman  
United States Environmental Protection Agency  
Remedial Enforcement Support Section  
77 West Jackson Boulevard, SR-6J  
Chicago, Illinois 60604-3590



Re: Invensys Climate Controls Americas  
Response to Section 104(e) Request for Information  
Downers Grove, Illinois Groundwater Investigation Site

Dear Mr. Cuffman:

On behalf of Invensys Climate Controls Americas ("Invensys"), we are responding to the United States Environmental Protection Agency's ("EPA") Section 104(e) Requests for Information sent to the Invensys facility located at 2820 Thatcher Road, Downers Grove, Illinois ("Property") regarding the Ellsworth Industrial Park Site ("Site").

The enclosed response makes clear that Invensys has absolutely no connection to or responsibility for the chlorinated solvent groundwater contamination at the Site. Invensys was a tenant of the building on the Property beginning in May 1987 and continuing through November 15, 2002 and has never conducted any type of manufacturing operation on the Property. During the time it leased the Property, Invensys used the Property primarily as a sales office and warehouse for storing products, including smoke alarms, timers and thermostats, prior to shipping. Invensys also had a small research and development area in the building. As the enclosed response states, Invensys has never purchased, stored, used, handled, treated or disposed of any hazardous materials, including any chlorinated solvents, on the Property. The enclosed response also states that Invensys has never had and is unaware of any releases or spills of any kind on the Property.

This response, and the attached answers to the information requests, are made without any acknowledgement that Invensys is a "responsible party" under CERCLA; without any admission of liability or responsibility under CERCLA or any other statute; and without acknowledgement of the applicability of the authorities referenced in the Section 104(e) letter. Without waiving any right to further object to the scope or basis for the request for information and documents, and/or any

Mr. Carlton D. Cuffman  
U.S. Environmental Protection Agency  
January 13, 2003  
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specific requests for information or documents, based on our investigation, at no time has Invensys, or any of its predecessors, disposed, arranged for disposal, or otherwise arranged for any chlorinated solvents to become located at, the Site. We therefore request that Invensys' name be removed from any list of potentially responsible parties for this Site, and that Invensys' name not be included on any such lists, or similar lists, in the future.

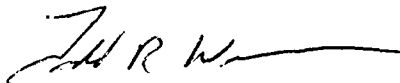
While Invensys is supplying EPA with information, it wishes to state and preserve its objections to certain aspects of the request. First, the definition section includes terms which create requests for which we can find no basis. For example, the terms "you" and "Respondent" are defined in such a way as to include businesses owned or operated by the responding party that have no relation or connection with the Site. Second, the request requires identification and inclusion of documents and information not in the possession, custody and control of Invensys, its employees, or persons engaged by or associated with Invensys. Third, the request contends that Invensys is under a continuing obligation to provide information and documents in response to the request. Because we have located no basis for this contention, we assume there is none. If, however, the EPA does have any basis, please inform us of it and Invensys will respond accordingly.

Invensys further objects to the requests requiring disclosure and identification of any hazardous substances or solid wastes purchased, received, processed, stored, treated, disposed or otherwise handled by Invensys since it is irrelevant, vague and overly burdensome to the extent this request goes beyond the TCE and PCE being addressed at the Site because other materials and wastes have no possible relationship or connection to the TCE and PCE contamination at the Site. Nevertheless, Invensys has fully responded to these requests with respect to all chlorinated and non-chlorinated solvents.

If EPA has any information or documents indicating any other Invensys relationship with the Site, or potential liability regarding any aspect of the Site, please immediately supply me with all such information and documents. Invensys reserves its rights to supplement this response in light of such information and documents.

Further contact about this matter should be made with Todd R. Wiener, McDermott, Will & Emery, 227 West Monroe Street, Chicago, Illinois 60606-5096, 312/984-7719.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd R. Wiener", with a long horizontal flourish extending to the right.

Todd R. Wiener

TRW/mb  
Enclosures

**Invensys Climate Controls Americas'**  
**Response to the U.S. Environmental Protection Agency**  
**CERCLA Section 104(e) Information Request**

RESPONSE No. 1: Respondent consulted with Thomas Barakat, Compliance Engineer, George Schleder, Financial Reporting Manager, William Tanguay, Design Engineer, and Sam Perkins, Warehouse Clerk, in connection with the responses to the Information Requests. The business address and telephone number for Mr. Barakat, Mr. Schleder and Mr. Tanguay are 191 East North Avenue, Carol Stream, Illinois 60188 and 630-260-3402, respectively. Mr. Perkins is located at 2820 Thatcher Road, Downers Grove, Illinois 60515. All of these individuals should be contacted through Invensys' outside legal counsel, Mr. Todd R. Wiener, McDermott, Will & Emery, 227 West Monroe Street, Chicago, Illinois 60606, 312-984-7719. Respondent also consulted with the owner of the Property, Danekas & Associates, 1323 West Windhill Drive, Palatine, Illinois 60067, 630-629-0670.

RESPONSE No. 2: Respondent examined available documentation related to its lease of the Property and its Illinois Department of Nuclear Safety Radioactive Material License. Copies of the Respondent's Lease Modification and Extension Agreement and Radioactive Material License are enclosed.

RESPONSE No. 3: The Property owner, Danekas & Associates, 1323 W. Windhill Drive, Palatine, Illinois 60067, 630-629-0670, may be able to provide more detailed information on its purchase of the Property.

RESPONSE No. 4a-4f: Since the time that it became the first tenant of the building on this Property in May 1987 and continuing until November 15, 2002, Respondent used the property primarily as a sales office and warehouse for storing product prior to shipping. The products stored in the building on the Property by Respondent were smoke alarms, timers and thermostats. The smoke alarms contained *de minimis* quantities of radioactive material. Respondent also conducted a small amount of research and development activity in the building on the Property, which involved the use of electronic meters, power supplies and hand tools. Respondent has not conducted any manufacturing activity on the Property and has not stored, purchased, used, handled, treated or disposed of any hazardous materials or chemicals on the Property.

RESPONSE No. 5: Respondent and its predecessors in interest leased the Property from May 1987 to the present. Respondent was the first tenant of the building on the Property. Respondent ceased occupying the Property on November 15, 2002. Respondent's lease for the Property runs until May 2003. A copy of the Lease Modification and Extension Agreement is enclosed. A copy of the underlying lease could not be located.

RESPONSE No. 6a-6c: Respondent believes that the current owner of the Property is Danekas & Associates, 1323 West Windhill Drive, Palatine, Illinois 60067, 630-629-0670. Respondent has no information on any prior owners of the Property.

RESPONSE No. 7a-7d: Respondent has no information on any prior operators of the Property.

RESPONSE No. 8: A copy of Respondent's Illinois Department of Nuclear Safety Radioactive Material License is enclosed.

RESPONSE No. 9: Respondent has not conducted any manufacturing operations on the Property.

RESPONSE No. 10: Respondent has not conducted any manufacturing operations on the Property and, consequently, has not produced any chemicals substances, by-products, sludges, liquid wastes (other than sanitary waste from bathroom toilets, sinks and showers) or other production wastes. Respondent has also not used any equipment to treat, transport or dispose of any waste materials.

RESPONSE No. 11: Respondent has not generated any production wastes on the Property and, therefore, has not and could not have disposed of any production wastes on the Property. In addition, Respondent is unaware of any landfills on the Property.

RESPONSE No. 12: Respondent has not conducted any manufacturing operations on the Property. As a result, Respondent has not generated or disposed of any rinse waters, sludge material or other liquid wastes, other than sanitary sewage from bathroom toilets, sinks and showers.

RESPONSE No. 13: Respondent is not aware of any groundwater monitoring wells on the Property.

RESPONSE No. 14: Respondent is not aware of any air monitoring devices on the Property.

RESPONSE No. 15: Respondent has not collected any soil borings from the Property and is aware of anyone else collecting soil borings from the Property.

RESPONSE No. 16: Respondent has not used and is not aware of any underground or above ground storage tanks currently or formerly located on the Property.

RESPONSE No. 17: Respondent began leasing the Property in May 1987 and has no knowledge of activities or operations on the Property prior to 1980. Furthermore, Respondent never purchased, stored, used, handled, treated or disposed of any solvents on the Property.

RESPONSE No. 18: Respondent began leasing the Property in May 1987 and has no knowledge of activities or operations on the Property prior to 1980. Furthermore, Respondent never purchased, stored, used, handled, treated or disposed of any solvents on the Property.

RESPONSE No. 19: Respondent has not purchased, used, stored, handled, treated or disposed of any solvents for the Property. Therefore, Respondent has not had any solvent suppliers.

RESPONSE No. 20: Respondent has not purchased, used, stored, handled, treated or disposed of any solvents for the Property. Therefore, Respondent has not had any solvent waste handlers.

RESPONSE No. 21: Respondent does not have any drawings or diagrams of the sanitary or storm sewer system at the Property.

RESPONSE No. 22: Respondent is not aware of any correspondence between it and any unit of local government regarding any wastewater discharges. As mentioned above, Respondent's only wastewater discharge is ordinary domestic sewage from bathroom toilets, sinks and showers.

RESPONSE No. 23: Respondent is aware of eleven floor drains in the building on the Property. Ten of these floor drains are located in bathrooms in the building. One floor drain is located in a janitorial closet.

RESPONSE No. 24: Respondent has not conducted any Phase I or Phase II Environmental Site Assessments on the Property.

STATE OF ILLINOIS  
DEPARTMENT OF NUCLEAR SAFETY

## RADIOACTIVE MATERIAL LICENSE

DIVISION OF RADIOACTIVE MATERIALS  
1035 OUTER PARK DRIVE  
SPRINGFIELD, ILLINOIS 62704

Pursuant to the Illinois Radiation Protection Act and the rules and regulations in 32 Illinois Administrative Code promulgated thereunder, and in reliance on statements and representations heretofore made by the licensee, a license is hereby issued authorizing the licensee to receive, acquire, own, possess and transfer radioactive material(s) listed herein, and to use such radioactive material(s) for the purpose(s) and at the place(s) designated below. This license is subject to all applicable rules, regulations and orders of the Illinois Department of Nuclear Safety now or hereafter in effect and to any conditions specified in the license. This document confirms that the licensee has registered the sources of radiation listed below in accordance with Section 2 of the Radiation Installations Act.

**LICENSEE**

Maple Chase Company  
d/b/a Invensys Climate Control NA  
2820 Thatcher Road  
Downers Grove, IL 60515

**LICENSE NUMBER**

IL-01280-01

**EXPIRATION DATE**

July 31, 2003

**AMENDMENT NUMBER**

7

Attention: Tom Barakat  
Radiation Safety Officer

In accordance with letter with attachments dated August 29, 2002, License Number IL-01280-01 is amended in its entirety. Previous amendments are void.

ITEM	RADIONUCLIDE	CHEMICAL and/or PHYSICAL FORM	MAXIMUM ACTIVITY* PER SOURCE	MAXIMUM POSSESSION LIMIT
A.	Am-241	Foil Sources - Nuclear Radiation Development Model A-001 or Amersham Model AMM-1001H	1.3 uCi	30 mCi

**AUTHORIZED USE:**

A. For Research and Development and Quality Control Testing.

### CONDITIONS

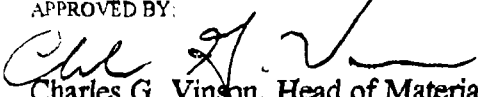
1. A. Radioactive material shall be used only at the licensee's facilities located at 191 E. North Avenue, Carol Stream, Illinois in accordance with statements, representations and procedures listed in other conditions of this license.

\*  $\mu$ Ci-microcurie; mCi-millicurie; Ci-Curie; MBq-Megabecquerel; GBq-Gigabecquerel; TBq-Terabecquerel; g-gram;  $\mu$ g-microgram; kg-kilogram

APPROVED BY:

DATE

PAGE of PAGES

  
Charles G. Vinson, Head of Materials Licensing  
IL 473-0059

October 30, 2002

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STATE OF ILLINOIS  
DEPARTMENT OF NUCLEAR SAFETY  
RADIOACTIVE MATERIAL LICENSE

LICENSEE	LICENSE NUMBER	AMENDMENT NUMBER	EXPIRATION DATE
Maple Chase Company	IL-01280-01	7	July 31, 2003

(Condition 1. continued)

- B. Radioactive material may be used at the licensee's facilities located at 2820 Thatcher Road, Downers Grove, Illinois as described in application received June 16, 1998 until March 1, 2003 in accordance with other conditions of this license. Prior to the release of facilities for unrestricted use, the licensee shall submit for Department review records of removal and/or transfer for all radioactive material used and/or stored at this facility, including documentation of all close-out monitoring made to confirm the removal of radioactive contamination. These facilities cannot be released for unrestricted use until written approval is obtained from the Department.**
2. Radioactive material shall be used by, or under the supervision of, Tom Barakat.
  3. The Radiation Safety Officer for this license is Tom Barakat.
  4. The licensee shall have radiation survey instrument(s) used to establish compliance with 32 Ill. Adm. Code calibrated by a person specifically authorized by the Department, an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission to perform such services. Records of radiation survey instrument calibrations shall be maintained for Department inspection.
  5. This license does not authorize distribution to persons exempted from 32 Ill. Adm. Code 330 or licensed pursuant to 32 Ill. Adm. Code 330.30, 330.40, 330.210, or 330.220(b) or equivalent regulations of an Agreement State or the U.S. Nuclear Regulatory Commission.
  6. The licensee shall conduct a physical inventory at intervals not to exceed six months to account for each sealed source received and possessed under the license and shall maintain a record of such inventories. The inventory records shall include the radionuclide, activity, activity assay date, manufacturer, model and serial number, the location of the sealed source, date of the inventory and the identity of the individual(s) performing the inventory. Records of inventories shall be maintained for five years from the date of each inventory.

\*  $\mu$ Ci-microcurie; mCi-millicurie; Ci-Curie; MBq-Megabecquerel; GBq-Gigabecquerel; TBq-Terabecquerel; g-gram;  $\mu$ g-microgram; kg-kilogram

APPROVED BY:

DATE

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Charles G. Vinson, Head of Materials Licensing

October 30, 2002

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IL 473-0059

NO. 4736 10N

MAPLECHASE COMPANY

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STATE OF ILLINOIS  
DEPARTMENT OF NUCLEAR SAFETY  
RADIOACTIVE MATERIAL LICENSE

LICENSEE	LICENSE NUMBER	AMENDMENT NUMBER	EXPIRATION DATE
Maple Chase Company	IL-01280-01	7	July 31, 2003

7. Except as specifically provided otherwise by the license, the licensee shall possess and use radioactive material described in all schedules of this license in accordance with statements, representations and procedures contained in, referenced in, or enclosed with the documents listed below. The regulations contained in 32 Ill. Adm. Code: Chapter II, Subchapters b and d shall govern unless the statements, representations and procedures in the licensee's application and correspondence are more restrictive than the regulations. The most recent statements, representations and procedures listed below shall govern if they conflict with previously submitted documents.
- A. Application received June 16, 1998.
- B. Letters, with attachments, dated October 27, 1998, August 29, 2002 and October 22, 2002.

CCV.DMP.kig

\*  $\mu$ Ci-microcurie; mCi-millicurie; Ci-Curie; MBq-Megabecquerel; GBq-Gigabecquerel; TBq-Terabecquerel; g-gram;  $\mu$ g-microgram; kg-kilogram

APPROVED BY:

DATE

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Charles G. Vinson, Head of Materials Licensing

October 30, 2002

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IL 473-0059

NO. 4739

MAPLECHASE COMPANY

JAN 3 2003 10:59AM



**LEASE MODIFICATION AND EXTENSION AGREEMENT**

LEASED PREMISES: 2820 Thatcher Road, Downers Grove, IL 60515

RENTABLE SQ. FT.: 35,000

WHEREAS <sup>of Chicago</sup> American National Bank & Trust Company/U/T/A 068792-09 as Lessor  
AND Coleman Safety and Security Products Corporation as Lessee has entered into a lease for  
the subject property dated July 17, 1997;

WHEREAS through various mergers and acquisitions since that time, the surviving  
Lessee is now known as Maple Chase Company, a Delaware Corporation;

WHEREAS American National Bank/<sup>and Trust Company</sup>of Chicago has sold all their trust business to  
National Association  
LaSalle Bank effective April 3, 2000, Successor Trustee;

WHEREAS the Commencement and Termination dates of the above-referenced lease are  
December 1, 1997 and November 30, 2000;

NOW THEREFORE Successor Lessor and replacement Lessee wish to modify and  
extend the term of the original lease as follows:

1. The last day of the term is extended to May 31, 2002.
2. Lessee will have one option to further extend the term for a period of either six (6)  
months or one (1) year subject to written notice of its election, which election  
shall specify the period for which Lessee has elected to extend the term, and  
delivered to Lessor no later than three hundred sixty (360) days prior to May 31,  
2002.

3. Base monthly rent for the first year of the extended term (December 1, 2000 through November 30, 2001) will be Thirty-Two Thousand One Hundred Forty-Six Dollars (\$32,146.00).
4. Base monthly rent for the period December 1, 2001 through May 31, 2002 shall be Thirty-Three Thousand One Hundred Ten Dollars (\$33,110.00).
5. Base monthly rent for the period June 1, 2002 through November 30, 2002 shall be Thirty-Three Thousand One Hundred Ten Dollars (\$33,110.00), if Lessee shall have elected to extend the lease term for at least six (6) months pursuant to Paragraph 2 above.
6. If Lessee shall have elected to extend the term for a 1-year period pursuant to Paragraph 2 above, base monthly rent for the period December 1, 2002 through May 31, 2003 shall be Thirty-Four Thousand One Hundred Four Dollars (\$34,104.00).
7. Additional monthly rent for the period December 1, 2000 through November 30, 2001 shall be as follows:

Initial Tax Estimate:	\$ 2,551.50/month
Initial Insurance Estimate:	\$ 302.50/month
Total Initial monthly rent for the first year of the extended term:	\$35,000.00/month

For the period on and after December 1, 2001, said sums shall be adjusted in accordance with the appropriate lease terms.
8. All other terms of the Original Lease will remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date indicated below.

LESSEE:

MAPLE CHASE COMPANY,  
a Delaware corporation

BY: 

DATED: 5/31/02

LESSOR: *National Association*

LASALLE BANK/AS SUCCESSOR  
TRUSTEE TO AMERICAN NATIONAL  
BANK AND TRUST COMPANY OF  
CHICAGO U/T/A 068792-09

BY:   
TRUST OFFICER

This instrument is executed by LASALLE BANK National Association, not personally but solely as Trustee, as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee. All the terms, provisions, stipulations, covenants and conditions to be performed by LASALLE BANK National Association are undertaken by it solely as Trustee, as aforesaid, and not individually and all statements herein made are made on information and belief and are to be construed accordingly, and no personal liability shall be asserted or be enforceable against LASALLE BANK National Association by reason of any of the terms, provisions, stipulations covenants and/or statements contained in this instrument